MT LEGISLATIVE HISTORY

Chapter 130 1975

Bill H _____ (S) 293 Original bill & hist. ✓ C

H. Committee on Agriculture, Livestock & Irrigation

Hearing Date(s) Feb 26 ✓ C

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Date Out _____ ___ C

S. Committee on Agriculture, Livestock & Irrigation

Hearing Date(s) Feb 03 ✓ C

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Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

Senate BILL NO. 293

INTRODUCED BY Lindaway Manley Halldorson, Mateer

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 87A-2-401, R.C.M. 1947, TO ALLOW A SELLER, WHEN A TRANSACTION INVOLVES INTERSTATE SHIPMENT OF CATTLE, TO ISSUE A REGULAR TITLE OR BILL OF SALE, OR A TRANSFER OF TITLE THAT IS CONDITIONAL UNTIL THE SELLER HAS RECEIVED NOTIFICATION FROM THE BUYERS' BANK THAT THE INSTRUMENT OF PAYMENT HAS CLEARED THE BANK, SUCH NOTIFICATION TO BE ATTACHED TO THE BILL OF SALE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 87A-2-401, R.C.M. 1947, is amended to read as follows:

"87A-2-401. Passing of title--reservation for security--limited application of this section. Each provision of this chapter with regard to the rights, obligations and remedies of the seller, the buyer, purchasers or other third parties applies irrespective of title to the goods except where the provision refers to such title. In so far as situations are not covered by the other provisions of this chapter and matters concerning title become material the following rules apply:

(1) Title to goods cannot pass under a contract for sale prior to their identification to the contract (section 87A-2-501), and unless otherwise explicitly agreed the buyer acquires by their identification a special property as limited by this act. Any retention or reservation by the seller of the title (property) in goods shipped or delivered to the buyer is limited in effect to a reservation of a security interest. Subject to these provisions and to the provisions of the Chapter on Secured Transactions (Chapter 9), title to goods passes from the seller to the buyer in any manner and on any conditions explicitly agreed on by the parties.

(2) Unless otherwise explicitly agreed title passes to the buyer at the time and place at which the seller completes his performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place; and in particular and despite any reservation of a security interest by the bill of lading

(a) if the contract requires or authorizes the seller to send the goods to the buyer but does not require him to deliver them at destination, title passes to the buyer at the time and place of shipment; but

(b) if the contract requires delivery at destination, title passes on tender there.

(3) Unless otherwise explicitly agreed where delivery is to be made without moving the goods,

(a) if the seller is to deliver a document of title, title passes at the time when and the place where he delivers such documents; or

(b) if the goods are at the time of contracting already identified and no documents are to be delivered, title passes at the time and place of contracting.

(4) For transactions involving interstate shipment of cattle the seller may (1) issue a regular title or bill of sale or (2) give a conditional transfer of title or bill of sale. The conditional transfer of title or bill of sale is fully validated and the title passes when the following conditions are met:

(a) The bank on which the buyer's warrant, check, or draft was drawn, notifies the seller, or his designated bank, that the instrument of payment has cleared the bank for payment, and

(b) a copy of the notification from the buyer's bank is attached to the conditional transfer of title or bill of sale.

~~(4)~~ (5) A rejection or other refusal by the buyer to receive or retain the goods, whether or not justified, or a justified revocation of acceptance revests title to the goods in the seller. Such revesting occurs by operation of

law and is not a "sale.""

-End-

HOUSE OF REPRESENTATIVES
AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE
February 26, 1975

A meeting of the Agriculture, Livestock & Irrigation Committee was held at 9:00 a.m. on Wednesday, February 26, 1975 in Room 431 at the State Capitol. All members were present except Reps. Smith, Hubing, Ellerd, Conroy and Murphy.

The first bill to be heard was Senate Bill No. 269, by Senator Conover. The Senator explained that this was a housekeeping bill. Mr. R. A. Ellis, Helena Valley Irrigation District, spoke up in support of the bill. There were no other proponents.

There were no opponents to SB 269. No questions were asked.

Sen. Ed Smith then introduced Senate Bill No. 209. This bill is cleanup legislation for a bill that was passed last session. There were no other proponents.

There were no opponents. Questions were then answered.

Sen. Roskie then presented Senate Joint Resolution No. 12. The resolution is designed to provide ours and other governors with a vehicle to promote a rangeland improvement program; see attached statement. There were no other proponents.

There were no opponents; questions followed. It was asked why the year 2000 was put in. Sen. Roskie had no objections to its removal.

The next bill heard was Senate Bill No. 213, by Senator Etchart. This deals with the R.C.M. section that is pertinent to the appointment of water commissioners. When we adopted the new water code several years ago, we left out some of the language. Mr. R. A. Ellis then expressed his approval of this bill. Mr. Gene Spilde, Mont. Water Development Assoc., then also rose in support of the bill.

There were no opponents. Questions followed.

The committee then went into executive session to consider the following bills:

SB 209 - Rep. Gunderson moved, Rep. Bertelsen seconded, that it BE CONCURRED IN. Motion carried. The bill was carried by Rep. Gunderson.

SB 269 - Rep. Hageman moved, Rep. Herlevi seconded, that it BE CONCURRED IN. Discussion followed concerning the $80,000 figure. Rep. Bertelsen then made a substitute motion to hold the bill. At that time Rep. Hageman withdrew his motion.

SJR 12 - Rep. Staigmiller moved, Rep. Hageman seconded, that it BE CONCURRED IN AS AMENDED. Motion carried unanimously. SJR 12 was given to Rep. Bertelsen.

SB 213 - Rep. Staigmiller moved, Rep. Underdal seconded, that it BE CONCURRED IN. Motion carried unanimously. The bill was assigned to Rep. Underdal to carry on the floor.

SJR 8 - Rep. Gunderson moved, Rep. Staigmiller seconded, that it BE CONCURRED IN. Rep. Bertelsen spoke up in opposition to the motion; discussion followed. Question was then called for - motion carried with Reps. Bertelsen and Underdal opposed. The bill was assigned for Rep. Murphy to carry.

SB 293 - Rep. Staigmiller moved, Rep. Hageman seconded, that it BE CONCURRED IN. Woody Wright brought up the need for a slight amendment in the body; this amendment was then incorporated into the motion. Motion carried unanimously. The bill was given to Rep. Staigmiller to carry.

SB 102 - An amendment was proposed for the bill, to include double poles and anchors. Rep. Bertelsen moved, Rep. Gunderson seconded, that it BE CONCURRED IN AS AMENDED. Motion carried unanimously. The bill was to be carried by Rep. Brand.

The meeting was then adjourned.

Respectfully submitted,

James F. Fleming, Jr. - Chairman

Debbie Schara - Secretary

NAME SENATOR MARK STARK Bill No. SB 213

ADDRESS GLASGOW, MONT. Date _____

WHOM DO YOU REPRESENT? DISTRICT 2

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: We need this bill for irrigation water delivery in dry years.

CONSIDERATION OF SENATE BILL 293:

Senator Graham stated that he had introduced this bill. This bill will allow two types of bill of sales. As the law is now, when your cattle are inspected you give the buyer a bill of sale. If these cattle are shipped out of state and the bank draft or check from the buyer is not good, there is not much the seller can do about it. With the passage of this bill, the buyer will only get a conditional bill of sale until his check or draft is passed through the bank and is good. It essentially is a lien until the money is made good. Senator Graham said he had checked with the Livestock Board and the Brand Office and they felt they could work under this law. He said the bill came about from a small interim study committee. He said this bill would only deal with cattle shipped out of state. The state of Oregon has a law of this same nature and they had said it was working well although it was not used too much.

DISPOSITION OF SENATE BILL 293:

Senator Conover moved that Senate Bill 293 DO PASS. Seconded by Senator Nelson. Motion carried unanimously.

CONSIDERATION OF SENATE BILL 213:

Senator Etchart said this bill was an attempt to set up a water commissioner to assure delivery of stored water down a natural stream and it sets up conditions so that a water commissioner can be hired.

Mr. Sever Enkerud, President, Glasglow Irrigation District Board spoke as a proponent to the bill. He said there are 120,000 acres and there is not enough water to irrigate this when some people are pumping the water illegally.

Mr. Ted Ereaux, member Malta Irrigation District Board, spoke next. He said the people are not getting the water that they should be getting because there are pumpers, who do not have permits, using the water before it can get to the people on the other end of the river.

Mr. Ralph Anderson, from Havre, Montana, spoke as an opponent. He felt if the bill were passed it would be a duplication. He did not know what authority the water commissioner would have since the river is not ajudicated. He thought the Water Resources Board was supposed to have authority over this.

Senator Kolstad said there a couple of bills that have been introduced that would give the Water Resources Board more power.

Bob Green, Milk River Project, and U.S. Bureau of Reclamation, said they release the water from the dam strictly on a demand basis and it is then up to the irrigation district . The districts have a contract for a long-term repayment.

ROLL CALL

AGRICULTURE, LIVESTOCK & IRRIGA. COMMITTEE

44th LEGISLATIVE ASSEMBLY 1975 Date 2-3

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BOYLAN - Vice Chair.	X		
SENATOR ABER	X		
SENATOR CONOVER	X		
SENATOR FOSTER	X		
SENATOR GALT			X
S. .IOR JERGESON	X		
SENATOR KOLSTAD	X		
SENATOR MANLEY	X		
SENATOR MURPHY	X		
SENATOR NELSON	X		
SENATOR GRAHAM - Chairman	X		
SENATOR McOMBER	X		

Each day attach to minutes

HOUSE OF REPRESENTATIVES
February 28, 1975

HOUSE COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION AMENDMENT TO SENATE BILL 293

1. Amend page 3, section 1, line 10.
Following: "may"
Strike: "(1)"

2. Amend page 3, section 1, line 11.
Following: "sale"
Strike: "or (2)"
Insert: ", or"

AS SO AMENDED
BE CONCURRED IN

SENATE BILL NO. 293

INTRODUCED BY GRAHAM, MANLEY, HAZELBAKER, MATHERS

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 87A-2-401, R.C.M. 1947, TO ALLOW A SELLER, WHEN A TRANSACTION INVOLVES INTERSTATE SHIPMENT OF CATTLE, TO ISSUE A REGULAR TITLE OR BILL OF SALE, OR A TRANSFER OF TITLE THAT IS CONDITIONAL UNTIL THE SELLER HAS RECEIVED NOTIFICATION FROM THE BUYERS' BANK THAT THE INSTRUMENT OF PAYMENT HAS CLEARED THE BANK, SUCH NOTIFICATION TO BE ATTACHED TO THE BILL OF SALE."

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REFERENCE BILL

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